

<b>4 February 2025</b>		<b>ITEM: 4</b>
<b>Licensing Sub-Committee</b>		
<b>Determination of an application to vary a premises licence</b>		
<b>Wards and communities affected:</b> Grays Thurrock	<b>Key Decision:</b> Non-key	
<b>Report of:</b> Elizabeth Cox, Licensing Officer		
<b>Accountable Assistant Director:</b> Michael Dineen, Assistant Director for Investigation, Enforcement and Community Protection & Safety (Incl. Emergency Planning and Resilience)		
<b>Accountable Director:</b> Daniel Fenwick, Executive Director of Corporate Services		
<b>This report is Public</b>		
<b>Version: Final</b>		

## **Executive Summary**

An application has been received to vary the premises licence for Desi, 59 Orsett Road, Grays, RM17 5HJ. Representations have been received from Environmental Protection and a local resident.

### **Commissioner Comment:**

Reports for Licensing Sub-Committee do not require Commissioner comment.

## **1. Recommendation(s)**

### **1.1 That the Sub-Committee**

**a) Considers this report and appendices together with any oral submissions at the hearing and determines the application to vary the premises licence in line with the options open to the committee under the Licensing Act 2003.**

## **2. Introduction and Background**

**2.1** On 19 November 2024, an application to vary the premises licence for Desi, 59 Orsett Road, Grays, RM17 5HJ was submitted by Abdul Bashir as the licence holder.

- 2.2 The application is to update the layout plan of the premises as an extension has been built to the front of the existing premises. The application does not seek to change any of the existing licensable activities. A copy of the full application and supporting documentation is attached as **Appendix 1**. A copy of the current premises licence is attached as **Appendix 2**. A location map is attached as **Appendix 3**.
- 2.3 The premises is currently authorised for live and recorded music and the supply of alcohol for consumption on the premises Monday – Thursday 10am – midnight, Friday – Saturday 10am – 1:30 am and Sunday midday – 11:30pm.
- 2.4 During the consultation period, a representation was received from a local resident. This is attached at **Appendix 4**.
- 2.5 Environmental protection have put forward a number of conditions they would like to be added to the licence if the variation is granted.
1. No live or recorded music to be played within new extension area.
  2. Live or recorded music permitted from within existing licenced areas of building.
  3. On Friday and Saturdays, live and recorded music within the main building/premises area to be played through a noise limiter-controlled surround sound system, permitted at agreed levels up to 23:00hrs. Whereupon after 23.00hrs, the volume of music will be reduced to agreed background levels, to reduce risk of intrusion on nearby neighbouring properties.
  4. On Friday and Saturdays, all live music/entertainment/DJ's/live singer to cease at 00.00hrs (with a reduced volume from 23.00hrs, see condition 3). Thereafter, low level/background recorded music allowed.
  5. On Christmas Eve & New Years Eve, all live music/entertainment/DJ's/live singer should cease by 01.00hrs.
  6. Sunday through to Thursday (inclusive), all live music/entertainment/DJ's/live singer to cease at 22.00hrs. Thereafter, low level/background recorded music allowed.
  7. The use of a standalone (leadless/Bluetooth type) mic/PA system, that allows the user to enter/roam freely into the new extension area, is to be prohibited.
  8. DJ's/singers are not permitted to use their own speaker systems and must use the existing/inhouse sound system which is limiter controlled.
  9. Additional speakers (either inhouse or brought in by outside party) within the new extension area and existing building are prohibited.

10. All doors (within the new extension) must be kept closed after 22:00hrs except to allow access and egress.
11. All windows (retractable sidings/frontage) within the new extension area must be kept closed after 22.00hrs.
12. The installation of a sound level limiter system within existing licensed area. Sound limiter system to be installed by a qualified individual. Once installed, Local Authority Environmental Health Officers to attend and assist in setting sound level restrictions to agreed levels.
13. Sound level limiter system monitoring to be carried out and adjustments made as necessary by Local Authority EHO's in conjunction with Premises owner. EHO's to liaise with Premises owner, if sound levels that would constitute a Statutory Noise Nuisance are witnessed by EHO's from Premises.

A copy of this is attached at **Appendix 5**

2.6 During the consultation period, Simon Barnes from Essex Police agreed the following conditions to be imposed on the licence if the variation is granted.

1. The premises shall have installed and maintain a closed circuit television surveillance (CCTV) system which at all times complies with the below requirements:
  - a. CCTV will be provided in the form of a recordable system, capable of providing pictures of evidential quality in all lighting conditions particularly facial recognition;
  - b. CCTV cameras shall cover all entrances and the areas where alcohol sales take place;
  - c. Equipment must be maintained in good working order, be correctly time and date stamped, recordings must be kept in good working order and kept for a minimum period of 31 days;
  - d. Upon the reasonable request of the police or licensing authority staff, within 48 hours viewable copies of recordings will be provided.
2. Signs must be displayed at all entrances advising customers that CCTV is operating at the premises and shall be a minimum size of 200 x 148 mm and clearly legible at all times when the premises conducts licensable activities.
3. An incident log shall be kept at the premises, and made immediately available to police or licensing authority staff upon reasonable request. The log must be completed as soon as is possible and within any case within 4 hours of the occurrence and shall record the following:
  - a. all crimes reported to the venue
  - b. all ejections of patrons
  - c. any complaints received concerning crime and disorder
  - d. any incidents of disorder
  - e. any faults in a CCTV system, searching equipment or scanning equipment mandated as a condition of the licence}

4. The incident log shall either be electronic or maintained in a bound document with individually numbered pages and be retained for at least 12 months from the date of the last entry.
5. A Challenge 25 scheme shall be operated, whereby any person who appears to be under the age of 25 years of age is required to produce on request an item which meets the mandatory age verification requirement and is either a:
  - a. Biometric Home Office photo ID
  - b. European National ID Card
  - c. Ministry of Defence Form 90 (Defence Identity Card)
  - d. Passport (UK or International)
  - e. Photo Driving Licence (UK or European)
  - f. Proof of Age Standards Scheme (PASS) card
6. Where Home Office approved (not yet approved) digital proof of identity assurance technology is in use, this condition applies only when confirming that a person is 18 years or older following a failure of that technology to do so.
7. A refusals record shall be maintained at the premises that details all refusals to sell alcohol. Each entry shall, as a minimum, record the date and time of the refusal and the name of the staff member refusing the sale. All entries must be made as soon as possible and in any event within 4 hours of the refusal and the record must be made immediately available to police, trading standards or licensing authority staff upon reasonable request. The refusals record shall be either electronic or maintained in a bound document and retained for at least 12 months from the date of the last entry.
8. All staff engaged in the sale or supply of alcohol on the premises shall have received training in relation to the protection of children from harm (including under-age sales), how to recognise drunkenness and the duty not to serve drunk persons. Refresher training shall be carried out at least every twelve months.
9. Training records shall be kept on the premises (or otherwise be accessible on the premises) for a minimum of 12 months and made immediately available to police, trading standards or licensing authority staff upon reasonable request.

Mr Bashir's acceptance of these conditions is attached as **Appendix 6**

- 2.7 No representations were received from any other Responsible Authorities
- 2.8 Under the Licensing Act 2003 the licensing objectives are –
  - (a) the prevention of crime and disorder;
  - (b) public safety;
  - (c) the prevention of public nuisance; and
  - (d) the protection of children from harm.
- 2.9 Any representation must relate to a particular premises and must be relevant to the promotion of one or more of the four licensing objectives.

### **3. Issues, Options and Analysis of Options**

- 3.1 The following options are available to the Licensing Sub-Committee:
- to grant the variation as applied for;
  - to grant the variation subject to such conditions as are necessary and proportionate to promote the licensing objectives; or
  - to refuse the application
- 3.2 In determining this application for a variation of a premises licence, the Sub-Committee should have regard to the Council's Statement of Licensing Policy and to the guidance issued by the Secretary of State under s182 of the Licensing Act 2003.
- 3.3 Section 2 of the statutory guidance relates to the four licensing objectives and may be relevant to this application.
- 3.4 The Sub-Committee are advised that any individual, body or business is entitled to make representations to the licensing authority in relation to an application for the grant of a premises licence. Any representations made by these persons must be 'relevant', in that the representation relates to one or more of the licensing objectives. It must also not be considered by the licensing authority to be frivolous or vexatious. The licensing authority, via the Sub-Committee, has a duty, in accordance with the rule of law, to behave fairly in the decision-making procedure. Representations from all parties both written and verbal will form part of matters that are to be considered. Findings on issues of fact should be on the balance of probability.
- 3.5 The Sub-Committee are advised that the final decision should be based on the individual merits of the application and findings of fact made at the hearing.
- 3.6 The application must be determined within 5 working days of the conclusion of the hearing, in accordance with paragraph 26 of the Licensing Act 2003 (Hearings) Regulations 2005.

### **4. Reasons for Recommendation**

- 4.1 These are the options available to the Sub-Committee.

### **5. Consultation (including Overview and Scrutiny, if applicable)**

- 5.1 The application has been consulted on in accordance with the requirements in the Licensing Act 2003.

### **6. Impact on corporate policies, priorities, performance and community impact**

- 6.1 The Council has a duty under Section 17 of the Crime & Disorder Act 1998 to do all that it reasonably can to prevent:

- (a) crime and disorder in its area (including anti-social behaviour and other behaviour adversely affecting the local environment), and;
- (b) the misuse of drugs, alcohol and other substances in its areas.

In considering this duty the Sub-Committee should have due regard to the submissions made by the applicant and interested parties, the Licensing Act 2003, the Guidance issued by the Secretary of State under Section 182 of the Act and the Council's own Statement of Licensing Policy.

## **7. Implications**

### **7.1 Financial**

Implications verified by: Rob Chimani,  
Interim Finance Business Partner

This licence application will contribute to licensing income against cost centre EH005, there are no adverse financial implications associated with the report

### **7.2 Legal**

Implications verified by: Godwin Mangse  
Interim Principal Lawyer Housing & Litigation

Thurrock Council as Licensing Authority under the Licensing Act 2003 and subordinate legislation is empowered to determine applications of this nature. Notice must be given of the Licensing Authority's decision on this matter. The decision could be subject to an appeal to a Magistrates Court, which can be instigated by either the applicant or the person who made the representation.

Each application must be considered on its own merits and in accordance with the licensing authority's statement of licensing policy.

Conditions attached to licences must be tailored to the individual type, location and characteristics of the premises concerned and be appropriate for the promotion of the licensing objectives in an individual case.

### **7.3 Diversity and Equality**

Implications verified by: Roxanne Scanlan  
Community Engagement and Project Monitoring  
Officer

There are no direct implications relating to this report.

The Licensing Sub-Committee is of a quasi-judicial nature and whilst the Licensing Committee should ensure equality of treatment for all groups in the granting of licences, due regard should be given to its responsibility to promote the licensing objectives and its duties under Section 17 of the Crime and Disorder Act 1998. This includes full consideration of the need to prevent crime and disorder, ensure public safety, the prevention of public nuisance and the protection of children from harm. Where it finds that the need to comply with those duties is reasonably inferred, it must determine the application appropriate.

#### **7.4 Risks**

None

#### **7.5 Other implications** (where significant) – i.e. Staff, Health, Sustainability, Crime and Disorder)

The implications of Section 17 Crime and Disorder Act 1998 have been considered at 6.1 above.

#### **8. Background papers used in preparing the report:**

- The Licensing Act 2003
- Guidance issued under Section 182 Licensing Act 2003
- Thurrock Council's Statement of Licensing Policy

#### **9. Appendices to the report:**

- Appendix 1 – Application form and accompanying documents
- Appendix 2 – Copy of current premises licence
- Appendix 3 – Location map
- Appendix 4 – Representation from local resident
- Appendix 5 – Representation from Environmental Protection
- Appendix 6 – Agreement to Police Conditions from Applicant

**Report Author:**  
Elizabeth Cox  
Licensing Officer